

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

Bail Appl..No. 3931 of 2007()

CRIME NO.176/2007 OF ARYANAD POLICE STATION

PETITIONER/ACCUSED

SUNILKUMAR, S/O RAVEENDRAN,
THOLOOR KUNJAMANNADI VEEDU,
CHITTUVEETTUMURI, UZHAMALAKKAL VILLAGE,
NEDUMANGAD TALUK.

BY ADV. SRI.T.A.UNNIKRISHNAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA REP.BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 29/06/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

B.A.No.3931 of 2007

Dated this the 29th day of June 2007

O R D E R

Application for anticipatory bail. On alleged receipt of prior information that sale of liquor was going on illicitly in the premises of the petitioner, the police party allegedly reached the house of the petitioner and the petitioner was allegedly found to sell beer to another. Both took to their heels on seeing the police party and could not be apprehended. Search led to recovery of 21 bottles of beer. Allegations have been raised that this quantity of liquor was kept in the possession of the petitioner for the purpose of illicit sale. Crime was registered on 01/06/2007. Investigation is in progress. The petitioner has not been arrested so far. His application for anticipatory bail has been dismissed by the learned Sessions Judge. The petitioner reiterates his prayer for anticipatory bail before me.

2. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that all the indications available suggest that the contraband liquor was kept

in the possession of the petitioner for the purpose of sale. In fact, the police party had also found that sale was going on when they reached the scene. In these circumstances, there are absolutely no circumstances to justify the invocation of the discretion under Section 438 Cr.P.C, submits the learned Public Prosecutor.

3. I find merit in the opposition by the learned Public Prosecutor. It is significant to note that no allegations of mala fides are made against any police official. The materials suggest and indicate that there is substance in the allegation that the contraband article was kept for sale. I do not intend to express any authentic opinion on the disputed facts. I am totally satisfied that this is not a fit case where the extraordinary equitable discretion under Section 438 Cr.P.C can or deserves to be invoked in favour of the petitioner. The petitioner must appear before the investigating officer or the learned Magistrate having jurisdiction and seek regular bail in the normal and ordinary course. Needless to say, if the petitioner so appears and applies for bail, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007